



Sharon Dillon, Mayor

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August 31, 2005

Bill Moore
WA Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Dear Mr. Moore,

First, I want to offer my apologies for not getting these comments in by August 19, 2005. I was falsely under the impression that the date was August 31, 2005, because I misread the date August 31, 2004 for a previous comment period. Again, my deepest apologies for that.

I want to take this opportunity to comment on the **Draft NPDES Phase II General Permit for Western Washington** as it relates to the City of Sedro-Woolley.

General Issues:

The greatest concern is that the City does not feel that Appendix 1 is an appropriate blanket condition to be placed upon all Phase II communities. Communities such as Sedro-Woolley have individual opportunities to greatly enhance stormwater runoff and surface water quality without such blanket prescriptive measures, and in fact it is felt that the City of Sedro-Woolley could improve surface water quality beyond some measures prescribed in Appendix 1.

Specifically, it is felt that including the conditions associated with what is classified as **“Redevelopment”** would place great hardship on the community and the municipality of Sedro-Woolley itself for many reasons:

1. City projects do not have the funding ability to support adding full drainage improvements when reconstructing a deteriorated street.
2. With a downtown revitalization effort being increasingly difficult, this requirement will effectively drive away potential businesses, further depressing an already faltering City economy.
3. West Nile Virus (WNV) – every added open pond is another breeding facility for mosquitoes which may host the WNV. A more global solution would make sense rather than project by project drainage improvements with individual treatment facilities for each.

Furthermore, it is felt that Sedro-Woolley could better focus on a large basin-wide project which would put the City “years ahead” of where we would be if the **“Redevelopment”** condition is placed on the City without regard for local opportunities and circumstances.

The City's position is that the "Redevelopment" condition requirements be removed from the **NPDES Phase II General Permit for Western Washington**.

If "**Redevelopment**" remains a condition of the **NPDES Phase II General Permit for Western Washington**, the City of Sedro-Woolley would request to be removed from coverage under this general permit and would request to instead be issued an individual MS4 Permit, which would contain conditions more appropriate for the City of Sedro-Woolley, and could result in a vastly improved water quality condition, far superior to that situation which would be created by merely following the proposed conditions of the **NPDES Phase II General Permit for Western Washington**, as well as being better planned, more efficient, and far less hardship on the government and citizens of the City of Sedro-Woolley.

Other general issues include:

- **2005 Stormwater Manual** - Permittees should not be required to adopt the entire 2005 Stormwater Management Manual for Western Washington without exception.
 - Ecology has always maintained the stormwater manual is not a regulatory instrument. All recent versions have stated this and described the manual's role as technical guidance.
 - The scope of NPDES is to require permits for discharge of "pollutants." There is no reference in the permit to controlling flow rates, volumes, or many of the other technical features that are contained in the Stormwater manual.
 - Ecology must ensure wherever the permittee is directed to the Stormwater manual, the language include only the relevant sections of the manual, and not the recommended sections or appendices.
 - Appendix 1 of this permit is overly prescriptive and mirrors the current manual. Future changes to the manual may be in conflict with Appendix 1.
 - Many jurisdictions believe they have a better ability to judge the necessary level of regulation to protect the environment and govern development in their locale than a State agency. It is not Ecology's responsibility to create local land-use rules.
- **Facilities on Private Property** - The municipal NPDES permit is intended to regulate the operations and functions of municipal stormwater systems.
 - It is beyond the scope of this permit to regulate land-use of private property or the effects of discharges from private property on receiving waters.
 - There are numerous action items in this permit that could require the permittee to trespass on private property to accomplish. The permittees should not have the duty to enter private property in pursuit of implementation of this permit, inspections, or testing.
 - The conditions of this permit need to be within the compliance ability of the permittees and the regulators.

- By necessity, permittees would be forced into taking over private facilities to gain full control and access rights. This would require significant funding increases as well.
- **MEP and Presumptive approach** - The NPDES permit is intended to be a narrative program based on using certain best management practices to meet a maximum extent practicable (MEP) compliance standard. In other words, if you take certain actions you are presumed to be in compliance with the permit.
 - Including TMDL fulfillment, as a feature of Phase II compliance, opens the door to jurisdictions being required to meet quantitative, hard number water quality targets to be in compliance with this permit.
 - Language should be added to this permit to insure the compliance standard remains MEP not numeric targets.
- **Staffing Requirements** - Implementing as ambitious a program as this permit requires will have a significant impact on the staff and budget of small jurisdictions.
 - Regardless of the EPA statement that permit compliance negates this being an unfunded mandate, this permit will require significant resources to be spent by local governments.
 - Without additional sources of funds small jurisdictions may have little chance at funding the complete program required by this permit. Elected officials may opt not to fund a program to the level which staff recommends simply because the local economy will not support such taxes, levies, or fees.

Specific Issues:

Unfortunately, we did not have time to assemble a list of all specific issues, and I am confident that any specific issues that the City of Sedro-Woolley has have been covered by other municipalities' comments.

We wish to express our thanks and appreciation for the opportunity for this review. We look forward to working with you on the implementation of this permit in a way that provides protection to the environment and is attainable by local governments.

Sincerely,

/s/

Richard J. Blair, P.E.
Director of Public Works / City Engineer
City of Sedro-Woolley

RJB:rjb